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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/563,788

07/13/2006

Rick M. Salisbury

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EXAMINER

PATEL, KIRAN B

ART UNIT

PAPER NUMBER

3612

MAIL DATE

DELIVERY MODE

03/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,788	Applicant(s) SALISBURY, RICK M.	
	Examiner /Kiran B. Patel/	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Non-Final Rejection (3/19/08)

Election/Restriction

1. Applicant's election without traverse of Invention A, Species A, Claims 1-3, 5-13, is acknowledged.

Claims 4, are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim.

Further, Claims 14 are withdrawn by the Examiner from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species. The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 10, 13, as best understood, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claims 10, 13, "plastic-type material" fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim Rejections - 35 USC § 102(b)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

Deleted: <#>This application contains claims directed to the following potentially distinct species of the claimed invention: ¶ Species A - directed towards claims 1-2, a power slide device.¶ Species B - directed towards claims 3-5, a power device with a step panel. ¶ Species C - directed towards claims 7-11, a power slide device with a shaft. ¶ Species D - directed towards claims 12-15, a method for connecting a wire. ¶ ¶ <#>Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there appears to be no claim, which is generic to all species.¶ ¶ ... [1]

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<#>Applicant's election with traverse of Invention A, Claim ... [2]

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Roethel (6,231,104).

Regarding Claims 1-3, 7-12, Roethel (6,231,104) discloses the invention as claimed to include a fairing frame member 125 at least partially defining a shape for the fairing 10; multiple coupling portions 130, 120 positioned on the fairing frame member and configured to removably couple the frame member to the front portion of the motorcycle; and at least one flexible fairing cover 10 portion configured for attachment to and at least partially covering the fairing frame member 125; wherein said fairing frame member 125 and flexible fairing cover are detachable from the front portion of the motorcycle and operable to be reconfigured into a smaller configuration for storage Fig 1-3; wherein the fairing frame member 125 includes multiple support members 130, 120 operable to be removably coupled to each other to form the fairing frame member Fig 1-3; wherein the fairing frame member and at least one flexible cover includes a modular configuration that facilitates quick assembly/disassembly into smaller components Fig 1-3; wherein the flexible fairing cover 10 is formed of a material selected from a group consisting of canvas, vinyl, polymeric blends, leather, and synthetic leather Fig 1-3; wherein the flexible fairing cover may removably couple to the fairing frame member using an attachment means selected from a list consisting of snaps, releasable loops, and straps Fig 1-3; wherein the flexible fairing cover has an opening configured to fit around a headlight 20 on the front of the motorcycle Fig 1-3; wherein the opening is lined with an elastic material to fit various shapes and sizes of headlights Fig 1-3; wherein the fairing is configured to attach to the front portion of a windshield Fig 1-3; wherein the fairing frame member is formed with a durable and rigid skeletal member Fig 1-3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the

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Claim Rejections - 35 USC § 102(e)¶

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:¶

A person shall be entitled to a patent unless --¶

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.¶

¶ The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).¶

¶ <#>Claims 1 are rejected under 35 U.S.C. 102(e) as being anticipated by Lumley et al. (5,630,645).¶

Regarding Claims 1, Lumley et al. ... [6]

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time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roethel (6,231,104) as applied to claim 1 and further in view of Mallett (4,655,497).

Regarding Claims 5-6, Roethel (6,231,104) discloses the invention as claimed.

However, Roethel (6,231,104) does not disclose the fairing frame member can be formed of multiple support members including a middle portion, first and second side portions, and intermediate portions to define the shape of the fairing; and the multiple support members are at least partially formed with a tubular formation and can be coupled together in a telescopic/mating arrangement.

Mallett (4,655,497) discloses the fairing frame member can be formed of multiple support members including a middle portion, first and second side portions, and intermediate portions to define the shape of the fairing; and the multiple support members are at least partially formed with a tubular formation and can be coupled together in a telescopic/mating arrangement Fig 1-5.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Roethel (6,231,104), to include the fairing frame member can be formed of multiple support members including a middle portion, first and second side portions, and intermediate portions to define the shape of the fairing; and the multiple support members are at least partially formed with a tubular formation and can be coupled together in a telescopic/mating arrangement, as disclosed by Mallett (4,655,497), to minimize the weight and minimize the folded size for easy and convenient storage.

Conclusion

5. The prior art made of record in attached Notice of Reference Cited (PTO-892) and not relied upon is considered pertinent to applicant's disclosure. This art of record shows various features similar to the applicant's invention.

6. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Kiran B. Patel whose telephone number is 571-272-6665. The examiner can normally be reached on M-F from 8:00 to 5:00. The

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Deleted: <#>Claims 4, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al. (4,792,180) as applied to claim 11 and further in view of ordinary skill in the art. ¶

Regarding Claims 4, 7, Jacobsen et al. (4,792,180) discloses the invention as claimed. ¶

However, Jacobsen et al. (4,792,180) does not disclose that the inner layer is reinforced with glass fiber and the outer skin is made of plastic. ¶

It would have been obvious to one having ordinary skill in the art at the time the invention was made to reinforce the inner layer with glass fiber and the outer skin is made of plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use to optimize the cost of the product made in light of size, availability, capacity to manufacture, manufacturing technology. ... [7]

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fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

/Kiran B. Patel/

Kiran B. Patel P.E.
Primary Examiner
Art Unit 3612
March 19, 2008